

of which have been unsuccessful, to locate the noncustodial parent:

(i) Over a three-year period when there is sufficient information to initiate an automated locate effort, or

(ii) Over a one-year period when there is not sufficient information to initiate an automated locate effort;

(5) The noncustodial parent cannot pay support for the duration of the child's minority because the parent has been institutionalized in a psychiatric facility, is incarcerated with no chance for parole, or has a medically-verified total and permanent disability with no evidence of support potential. The State must also determine that no income or assets are available to the noncustodial parent which could be levied or attached for support;

(6) The noncustodial parent is a citizen of, and lives in, a foreign country, does not work for the Federal government or a company with headquarters or offices in the United States, and has no reachable domestic income or assets; and the State has been unable to establish reciprocity with the country;

(7) The IV-D agency has provided location-only services as requested under § 302.35(c)(3) of this chapter;

(8) The non-IV-A recipient of services requests closure of a case and there is no assignment to the State of medical support under 42 CFR 433.146 or of arrearages which accrued under a support order;

(9) There has been a finding by the responsible State agency of good cause or other exceptions to cooperation with the IV-D agency and the State or local IV-A, IV-D, IV-E, Medicaid or food stamp agency has determined that support enforcement may not proceed without risk of harm to the child or caretaker relative;

(10) In a non-IV-A case receiving services under § 302.33(a)(1) (i) or (iii), the IV-D agency is unable to contact the recipient of services within a 60 calendar day period despite an attempt of at least one letter sent by first class mail to the last known address;

(11) In a non-IV-A case receiving services under § 302.33(a)(1) (i) or (iii), the IV-D agency documents the circumstances of the recipient of services's noncooperation and an action by the recipient of services is es-

sential for the next step in providing IV-D services.

(12) The IV-D agency documents failure by the initiating State to take an action which is essential for the next step in providing services.

(c) In cases meeting the criteria in paragraphs (b) (1) through (6) and (10) through (12) of this section, the State must notify the recipient of services, or in an interstate case meeting the criteria for closure under (b)(12), the initiating State, in writing 60 calendar days prior to closure of the case of the State's intent to close the case. The case must be kept open if the recipient of services or the initiating State supplies information in response to the notice which could lead to the establishment of paternity or a support order or enforcement of an order, or, in the instance of paragraph (b)(10) of this section, if contact is reestablished with the recipient of services. If the case is closed, the former recipient of services may request at a later date that the case be reopened if there is a change in circumstances which could lead to the establishment of paternity or a support order or enforcement of an order by completing a new application for IV-D services and paying any applicable application fee.

(d) The IV-D agency must retain all records for cases closed pursuant to this section for a minimum of three years, in accordance with 45 CFR part 74.

[54 FR 32311, Aug. 4, 1989, as amended at 56 FR 8004, Feb. 26, 1991; 64 FR 11817, 11818, Mar. 10, 1999]

**§ 303.15 Agreements to use the Federal Parent Locator Service (PLS) in parental kidnapping and child custody or visitation cases.**

(a) *Definitions.* The following definitions apply to this section:

(1) *Authorized person* means the following:

(i) Any agent or attorney of any State having an agreement under this section, who has the duty or authority under the laws of the State to enforce a child custody or visitation determination;

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(ii) Any court having jurisdiction to make or enforce a child custody or visitation determination, or any agent of the court; or

(iii) Any agent or attorney of the United States, or of a State having an agreement under this section, who has the duty or authority to investigate, enforce, or bring a prosecution with respect to the unlawful taking or restraint of a child.

(2) *Custody or visitation determination* means a judgment, decree, or other order of a court providing for custody or visitation of a child, and includes permanent and temporary orders, and initial orders and modifications.

(b) A State shall enter into an agreement with the Office that meets the requirements of section 463 of the Act and this section of the regulations so that the State IV-D agency may request information from the Federal PLS for the purpose of:

(1) Enforcing any State or Federal law with respect to the unlawful taking or restraint of a child; or

(2) Making or enforcing a child custody or visitation determination.

(c) An agreement under section 463 of the Act must contain the following provisions:

(1) The Director will provide the State IV-D agency with the most recent home address and place of employment of a parent or child if the information is requested for the purposes specified in paragraph (b) of this section.

(2) The State shall make requests for information under the agreement only for the purposes specified in paragraph (b) of this section.

(3) The State shall make requests to the Federal PLS through the State PLS established under § 302.35 of this chapter.

(4) The State shall submit requests in the standard format and exchange media normally available to or used by the State PLS.

(5) The State shall identify requests in a manner prescribed by the Office in instructions so that requests can be distinguished from other types of requests submitted to the Federal PLS.

(6) The State shall impose, collect and account for fees to offset the costs

to the State and the Office incurred in processing requests.

(7) The State shall periodically transmit the fees collected to cover the costs to the Federal PLS of processing requests. Fees shall be transmitted in the amount and in the manner prescribed by the Office in instructions.

(8) The State shall adopt policies and procedures to ensure that information shall be used and disclosed solely for the purposes specified in paragraph (b) of this section. Under this requirement, the State shall:

(i) Restrict access to the information to authorized persons whose duties or responsibilities require access in connection with child custody and parental kidnapping cases;

(ii) Store the information during nonduty hours, or when not in use, in a locked container within a secure area that is safe from access by unauthorized persons;

(iii) Process the information under the immediate supervision and control of authorized personnel, in a manner which will protect the confidentiality of the information, and in such a way that unauthorized persons cannot retrieve the information by computer, remote terminal, or other means;

(iv) Brief all employees who will have access to the data on security procedures and instructions;

(v) Send the information directly to the requestor and make no other use of the information;

(vi) After the information is sent to the requestor, destroy any confidential records and information related to the request.

(d)(1) An agreement under section 463 of the Act must be signed by the Governor of the State or the Governor's designee.

(2) The agreement must also be signed by the Attorney General of the State who must certify that the signing State official has the authority under State law to commit the State to the agreement.

[46 FR 54557, Nov. 3, 1981, as amended at 64 FR 6250, Feb. 9, 1999; 68 FR 25304, May 12, 2003]